

## **REMARKS**

### **I. Introduction**

With the cancellation of claims 79 to 87 without prejudice, claims 56 to 59, 62 to 78 and 88 to 89 are now pending in the above-referenced application and are submitted for the Examiner's reconsideration. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

### **II. Information Disclosure Statement**

Applicant has not received a copy of the initialed PTO Form 1449 which we submitted to the PTO in connection with an Information Disclosure Statement on April 2, 2001. The Examiner is respectfully requested to forward a copy of this form with the next communication to indicate receipt and review of this form.

### **III. Rejection of Claims 56 to 57, 62 to 63, 65 to 71, 73 to 77, 79 to 85 and 87 to 88 Under 35 U.S.C. § 103(a)**

Claims 56 to 57, 62 to 63, 65 to 71, 73 to 77, 78 to 85 and 87 to 88 were rejected under 35 U.S.C. §103(a) as obvious over McClelland (U.S. Patent No. 5,689,650) in view of Buente ("Significant Environmental Law Developments"). The Examiner stated, in support of the rejection, that McClelland discloses the invention substantially as claimed, except for failing to "particularly call for using the funds for acquiring Brownfields projects, and without taking ownership (or non-recourse or passive investing) in the project," but that Buente teaches this feature.

It is respectfully submitted that the combination of McClelland and Buente does not render obvious the present independent claims for at least the following reasons.

#### **a. Rejection of Claims 56 to 57**

Claim 56, as amended, recites the following:

A method for managing a Brownfields fund, comprising:  
storing in a computer system information relating to a Brownfields fund;  
accepting investor capital from at least one investor into the Brownfields fund;

storing information in the computer system relating to the at least one investor, the stored information including investor identification information, investment amounts, and terms of investments;

storing information in the computer system concerning an entity and a project involving a Brownfields, the entity having an ownership interest in the Brownfields;

approving the entity and the Brownfields project according to select criteria using the information stored in the computer system concerning the entity and the Brownfields project; and

providing investment capital from the Brownfields fund to the approved entity for the approved Brownfields project without taking any ownership interest in the approved Brownfields project, the approved entity being provided the investment capital using at least some of the investor capital from the at least one investor.

Claim 56 relates to a method for managing a Brownfields fund that includes using a computer system to accept investor capital into the Brownfields fund, approve an entity that has an ownership interest in the Brownfields for investment capital from the Brownfields fund for a Brownfields project according to select criteria, and provide investment capital from the Brownfields fund to the approved entity for the approved project using at least some of the investor capital from at least one investor. The present invention directly connects investors to projects by Brownfields owners through a managed Brownfields fund. Without requiring the involvement of any further intermediaries, e.g., banks or other institutions, the present invention facilitates, for example, the remediation of Brownfields, by increasing the desirability of investment in Brownfields projects directly through the Brownfields fund.

McClelland concerns entirely different subject matter from the present invention: a computer network to facilitate the securitization of loans that have already been granted by financial institutions to borrowers, namely Community Reinvestment Act mortgages (that are granted in low to moderate income areas). (Col. 1, lines 4 to 22.) The “CRA network may buy CRA qualified loans in the secondary market and/or work with private or governmental agencies to originate securities backed by qualifying assets.” (Col. 4, lines 11 to 14.) In other words, the computer network in McClelland includes the use of information by an investment advisor, who “buys or sells particular loans to meet portfolio risk parameters and a desired CRA distribution.” (Col. 4, lines 43 to 47.) The loans or debt instruments (also referred to as assets) are already in existence. They have already been

granted or “originated” by or from financial institutions, and are later purchased from the financial institutions for the portfolio in the CRA network. (Col. 8, lines 35 to 36; Col. 17, lines 9 to 12, 15 to 17, 25 to 28, 37 to 39.) Investors invest in the portfolio of existing loans, and the investment advisor helps determine the contents of that portfolio for the investor. (Col. 25, line 50 to Col. 26, line 24.) None of the participants in the CRA network are involved in determining whether to grant the loans to the homeowners in the first place. Further, there is no mention or suggestion in McClelland that any of the investor capital is provided to the homeowner or used to finance the underlying loan, much less any of the other features recited in claim 56. McClelland clearly neither illustrates nor describes managing a Brownfields fund with the use of information from a computer system, including the steps of accepting investor capital from at least one investor into the fund, approving the Brownfields owning entity and the Brownfields project according to select criteria, and providing investment capital from the Brownfields fund to the approved entity using at least some of the investor capital from the at least one investor without taking an ownership interest in the Brownfields projects, as recited in claim 56.

It is respectfully submitted that Buente fails to cure these defects. The article entitled “Significant Environmental Law Developments” describes existing laws and decisions concerning the liability of lenders to Brownfield redevelopment projects. There is no mention or suggestion in Buente concerning any financing of the lender or the lender’s decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Buente clearly neither illustrates nor describes managing a Brownfields fund with the use of information from a computer system, including the steps of accepting investor capital from at least one investor into the fund, approving the Brownfields owning entity and the Brownfields project according to select criteria, and providing investment capital from the Brownfields fund to the approved entity using at least some of the investor capital from the at least one investor without taking an ownership interest in the Brownfields projects, as recited in claim 56. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland and Buente as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland and Buente does not render obvious claim 56, and this rejection should be withdrawn.

As for claim 57, which ultimately depends from claim 56 and therefore include all of the features recited in claim 56, it is respectfully submitted that the rejection of this claim should be withdrawn, as well.

**b. Rejection of Claims 62 to 63, and 65 to 69**

Claim 62, as amended, recites the following:

A method for investing in Brownfields using a computer system, comprising:

- establishing a Brownfields fund, the Brownfields fund providing investment capital for Brownfields projects and remaining passive with respect to the Brownfields projects;
- receiving an indication of investor capital from investors into the Brownfields fund by the computer system;
- approving an entity for the investment capital for a respective one of the Brownfields projects, the entity having an ownership interest in a Brownfields associated with the one of the Brownfields projects; and
- providing an indication of the investment capital by the computer system from the Brownfields fund to the approved entity, the approved entity being provided the investment capital using at least some of the investor capital from the investors.

Claim 62 relates to a method for investing in Brownfields that includes using a computer system to establish a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receive an indication of investor capital from investors into the Brownfields fund, approve an entity that has an ownership interest in the Brownfields for investment capital from the Brownfields fund for a Brownfields project according to select criteria, and provide an indication of the investment capital provided from the Brownfields fund to the approved entity for the approved project using at least some of the investor capital from the investors. The present invention directly connects investors to projects by Brownfields owners through a managed Brownfields fund. Without requiring the involvement of any further intermediaries, e.g., banks or other institutions, the present invention facilitates, for example, the remediation of Brownfields, by increasing the desirability of investment in Brownfields projects directly through the Brownfields fund.

As described above, McClelland concerns entirely different subject matter from the present invention: a computer network to facilitate the securitization of loans that have already been granted by financial institutions to borrowers, namely Community Reinvestment Act mortgages (that are granted in low to moderate income areas). (Col. 1, lines 4 to 22.) None of the participants in the CRA network are involved in determining whether to grant the loans to the homeowners in the first place. Further, there is no mention

or suggestion in McClelland that any of the investor capital is provided to the homeowner or used to finance the underlying loan, much less any of the other features recited in claim 62. McClelland clearly neither illustrates nor describes investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital for a Brownfields project who has an ownership interest in the Brownfields, and providing an indication of the investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 62.

It is respectfully submitted that Buente fails to cure these defects. There is no mention or suggestion in Buente concerning any financing of the lender or the lender's decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Buente clearly neither illustrates nor describes investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital for a Brownfields project who has an ownership interest in the Brownfields, and providing an indication of the investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 62. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland and Buente as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland and Buente does not render obvious claim 62, and this rejection should be withdrawn.

As for claims 63 and 65 to 69, which ultimately depend from claim 62 and therefore include all of the features recited in claim 62, it is respectfully submitted that the rejection of these claims should be withdrawn, as well.

**c. Rejection of Claims 70 to 71 and 73 to 74**

Claim 70, as amended, recites the following:

A method for investing in Brownfields using a computer system, comprising:  
establishing a Brownfields fund, the Brownfields fund  
providing investment capital on a non-recourse basis for

Brownfields projects and remaining passive with respect to the Brownfields projects;

receiving an indication of investor capital from investors into the Brownfields fund by the computer system; approving an entity for the investment capital on the non-recourse basis for a respective one of the Brownfields projects, the entity having an ownership interest in a Brownfields associated with the one of the Brownfields projects; and

providing an indication of the investment capital on the non-recourse basis from the Brownfields fund to the approved entity by the computer system, the approved entity being provided the investment capital using at least some of the investor capital from the investors.

Claim 70 relates to a method for investing in Brownfields that includes using a computer system to establish a Brownfields fund that provides investment capital to Brownfields projects on a non-recourse basis and while remaining passive with respect to the Brownfields projects, receive an indication of investor capital from investors into the Brownfields fund, approve an entity that has an ownership interest in the Brownfields for investment capital on the non-recourse basis from the Brownfields fund for a Brownfields project according to select criteria, and provide an indication of the investment capital provided from the Brownfields fund to the approved entity for the approved project using at least some of the investor capital from the investors. The present invention directly connects investors to projects by Brownfields owners through a managed Brownfields fund. Without requiring the involvement of any further intermediaries, e.g., banks or other institutions, the present invention facilitates, for example, the remediation of Brownfields, by increasing the desirability of investment in Brownfields projects directly through the Brownfields fund.

As described above, McClelland concerns entirely different subject matter from the present invention: a computer network to facilitate the securitization of loans that have already been granted by financial institutions to borrowers, namely Community Reinvestment Act mortgages (that are granted in low to moderate income areas). (Col. 1, lines 4 to 22.) None of the participants in the CRA network are involved in determining whether to grant the loans to the homeowners in the first place. Further, there is no mention or suggestion in McClelland that any of the investor capital is provided to the homeowner or used to finance the underlying loan, much less any of the other features recited in claim 70. McClelland clearly neither illustrates nor describes a method for investing in Brownfields with the use of information from a computer system, including the steps of establishing a

Brownfields fund that provides investment capital on a non-recourse basis while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital on the non-recourse basis for a Brownfields project who has an ownership interest in the Brownfields, and providing an indication of the investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 70.

It is respectfully submitted that Buente fails to cure these defects. There is no mention or suggestion in Buente concerning any financing of the lender or the lender's decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Buente clearly neither illustrates nor describes a method for investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital on a non-recourse basis while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital on the non-recourse basis for a Brownfields project who has an ownership interest in the Brownfields, and providing an indication of the investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 70. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland and Buente as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland and Buente does not render obvious claim 70, and this rejection should be withdrawn.

As for claims 71 and 73 to 74, which ultimately depend from claim 70 and therefore include all of the features recited in claim 70, it is respectfully submitted that the rejection of these claims should be withdrawn, as well.

**d. Rejection of Claims 74 to 77**

Claim 74, as amended, recites the following:

A method for investing in Brownfields using a computer system, comprising:  
establishing a Brownfields fund, the Brownfields fund providing investment capital for Brownfields projects and remaining passive with respect to the Brownfields projects;  
receiving an indication of investor capital from investors into the Brownfields fund by the computer system;  
approving an entity for the investment capital for a respective one of the Brownfields projects according to predetermined criteria, the entity having an ownership interest

in a Brownfields associated with the one of the Brownfields projects; and

providing an indication of the investment capital to the approved entity from the Brownfields fund by the computer system, the approved entity being provided the investment capital using at least some of the investor capital from the investors.

Claim 74 relates to a method for investing in Brownfields that includes using a computer system to establish a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receive an indication of investor capital from investors into the Brownfields fund, approve an entity that has an ownership interest in the Brownfields for investment capital from the Brownfields fund for a Brownfields project according to predetermined criteria, and provide an indication of the investment capital provided from the Brownfields fund to the approved entity for the approved project using at least some of the investor capital from the investors. The present invention directly connects investors to projects by Brownfields owners through a managed Brownfields fund. Without requiring the involvement of any further intermediaries, e.g., banks or other institutions, the present invention facilitates, for example, the remediation of Brownfields, by increasing the desirability of investment in Brownfields projects directly through the Brownfields fund.

As described above, McClelland concerns entirely different subject matter from the present invention: a computer network to facilitate the securitization of loans that have already been granted by financial institutions to borrowers, namely Community Reinvestment Act mortgages (that are granted in low to moderate income areas). (Col. 1, lines 4 to 22.) None of the participants in the CRA network are involved in determining whether to grant the loans to the homeowners in the first place. Further, there is no mention or suggestion in McClelland that any of the investor capital is provided to the homeowner or used to finance the underlying loan, much less any of the other features recited in claim 74. McClelland clearly neither illustrates nor describes a method for investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital for a Brownfields project who has an ownership interest in the Brownfields according to predetermined criteria, and providing an indication of the



investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 74.

It is respectfully submitted that Buente fails to cure these defects. There is no mention or suggestion in Buente concerning any financing of the lender or the lender's decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Buente clearly neither illustrates nor describes a method for investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital for a Brownfields project who has an ownership interest in the Brownfields according to predetermined criteria, and providing an indication of the investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 74. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland and Buente as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland and Buente does not render obvious claim 74, and this rejection should be withdrawn.

As for claims 75 to 77, which ultimately depend from claim 74 and therefore include all of the features recited in claim 74, it is respectfully submitted that the rejection of these claims should be withdrawn, as well.

**e. Rejection of Claims 79 to 85 and 87**

While Applicant respectfully disagrees with the merits of this rejection and believe that claims 79 to 85 and 87 are allowable for at least the same reasons as set forth above, to facilitate matters, claims 79 to 87 have been canceled herein without prejudice or waiver, thereby rendering moot the present rejection. Withdrawal of this rejection is therefore respectfully requested.

**f. Rejection of Claims 88**

Claim 88, as amended, recites the following:

A method of investing in Brownfields using a computer system, comprising:

providing, by the computer system, an indication of investor capital into a Brownfields fund by an investor to the Brownfields fund in accordance with

predetermined terms of investment, the Brownfields fund providing investment capital for Brownfields projects and remaining passive with respect to the Brownfields projects, the Brownfields fund approving an entity for the investment capital for a respective one of the Brownfields projects according to select criteria, the entity having an ownership interest in a Brownfields associated with the one of the Brownfields projects, an indication of the investment capital being provided to the approved entity from the Brownfields fund by the computer system, the approved entity being provided the investment capital using at least some of the investor capital from the investor without taking any ownership interest in a Brownfields property associated with the one of the Brownfields projects; and

receiving by the investor from the computer system an indication of a return on investment, the return on investment being determined as a function of the predetermined terms of investment.

Claim 88 relates to a method for investing in Brownfields fund that includes using a computer system to provide an indication of investor capital into a Brownfields fund, and receive an indication of a return on investment. The Brownfields fund provides investment capital for Brownfields projects and remains passive with respect to the Brownfields projects. The Brownfields fund approves an entity who has an ownership interest in a Brownfields to receive the investment capital for a Brownfields project according to select criteria. The Brownfields fund provides the investment capital to the approved entity using at least some of the investor capital without taking any ownership interest in the Brownfields property associated with the project. The return on the investment is determined as a function of the predetermined terms of investment.

As described above, McClelland concerns entirely different subject matter from the present invention: a computer network to facilitate the securitization of loans that have already been granted by financial institutions to borrowers, namely Community Reinvestment Act mortgages (that are granted in low to moderate income areas). (Col. 1, lines 4 to 22.) None of the participants in the CRA network are involved in determining whether to grant the loans to the homeowners in the first place. Further, there is no mention or suggestion in McClelland that any of the investor capital is provided to the homeowner or used to finance the underlying loan, much less any of the other features recited in claim 88. McClelland clearly neither illustrates nor describes a method of investing in Brownfields with the use of information from a computer system, including the steps of providing an indication of investor capital into the Brownfields fund, the Brownfields fund approving an entity with

an ownership interest in a Brownfields for the investment capital according to select criteria; providing investment capital from the Brownfields fund, using at least some of the investor capital in the fund, while remaining passive with respect to a Brownfields project associated with the Brownfields; and receiving an indication of a return on investment based on the predetermined terms of investment, as recited in claim 88.

It is respectfully submitted that Buente fails to cure these defects. There is no mention or suggestion in Buente concerning any financing of the lender or the lender's decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Buente clearly neither illustrates nor describes a method of investing in Brownfields with the use of information from a computer system, including the steps of a method of investing in Brownfields with the use of information from a computer system, including the steps of providing an indication of investor capital into the Brownfields fund, the Brownfields fund approving an entity with an ownership interest in a Brownfields for the investment capital according to select criteria; providing investment capital from the Brownfields fund, using at least some of the investor capital in the fund, while remaining passive with respect to a Brownfields project associated with the Brownfields; and receiving an indication of a return on investment based on the predetermined terms of investment, as recited in claim 88. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland and Buente as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland and Buente does not render obvious claim 88, and this rejection should be withdrawn.

#### **IV. Rejection of Claims 58 to 59, 64, 78, 86 and 89 Under 35 U.S.C. § 103(a)**

Claims 58 to 59, 64, 78, 86 and 89 were rejected under 35 U.S.C. § 103(a) as obvious over McClelland and Buente in view of Slutzky ("EPA's Brownfields Initiatives"). The Examiner stated, in support of the rejection, that McClelland and Buente disclose the invention substantially as claimed, except for failing to "particularly call for exchanging an interest in future cash flows from the project for the investment capital," but that Slutzky teaches this feature. It is respectfully submitted that the combination of McClelland, Buente and Slutzky does not render obvious the present independent claims for at least the following reasons.

##### **a. Rejection of Claims 58 to 59**

Claims 58 to 59 ultimately depend from and include all of the features recited in claim 56. As described above, claim 56 relates to a method for managing a Brownfields fund that includes using a computer system to accept investor capital into the Brownfields fund, approve an entity that has an ownership interest in the Brownfields for investment capital from the Brownfields fund for a Brownfields project according to select criteria, and provide investment capital from the Brownfields fund to the approved entity for the approved project using at least some of the investor capital from at least one investor. The present invention directly connects investors to projects by Brownfields owners through a managed Brownfields fund. Without requiring the involvement of any further intermediaries, e.g., banks or other institutions, the present invention facilitates, for example, the remediation of Brownfields, by increasing the desirability of investment in Brownfields projects directly through the Brownfields fund.

Also as described above, neither McClelland nor Buente illustrate or describe managing a Brownfields fund with the use of information from a computer system, including the steps of accepting investor capital from at least one investor into the fund, approving the Brownfields owning entity and the Brownfields project according to select criteria, and providing investment capital from the Brownfields fund to the approved entity using at least some of the investor capital from the at least one investor without taking an ownership interest in the Brownfields projects, as recited in claim 56.

It is respectfully submitted that Slutzky fails to cure these defects. The article entitled “EPA’s Brownfields Initiatives” describes recent action by the EPA and possible reactions by lenders to Brownfield sites. There is no mention or suggestion in Slutzky concerning any financing of the lender or the lender’s decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Slutzky clearly neither illustrates nor describes managing a Brownfields fund with the use of information from a computer system, including the steps of accepting investor capital from at least one investor into the fund, approving the Brownfields owning entity and the Brownfields project according to select criteria, and providing investment capital from the Brownfields fund to the approved entity using at least some of the investor capital from the at least one investor without taking an ownership interest in the Brownfields projects, as recited in claim 56. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland, Buente and Slutzky as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland, Buente and Slutzky does not render obvious claim 56. Since claims 58 to 59 ultimately depend from claim 56 and therefore include all of the features recited in claim 56, it is respectfully submitted that the rejection of claims 58 to 59 should be withdrawn.

**b. Rejection of Claim 64**

Claim 64 ultimately depends from and include all of the features recited in claim 62. As described above, claim 62 relates to a method for investing in Brownfields that includes using a computer system to establish a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receive an indication of investor capital from investors into the Brownfields fund, approve an entity that has an ownership interest in the Brownfields for investment capital from the Brownfields fund for a Brownfields project according to select criteria, and provide an indication of the investment capital provided from the Brownfields fund to the approved entity for the approved project using at least some of the investor capital from the investors. The present invention directly connects investors to projects by Brownfields owners through a managed Brownfields fund. Without requiring the involvement of any further intermediaries, e.g., banks or other institutions, the present invention facilitates, for example, the remediation of Brownfields, by increasing the desirability of investment in Brownfields projects directly through the Brownfields fund.

Also as described above, neither McClelland nor Buente clearly illustrate or describe investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital for a Brownfields project who has an ownership interest in the Brownfields, and providing an indication of the investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 62.

It is respectfully submitted that Slutzky fails to cure these defects. There is no mention or suggestion in Slutzky concerning any financing of the lender or the lender's decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Slutzky clearly neither illustrates nor describes investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital while remaining

passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital for a Brownfields project who has an ownership interest in the Brownfields, and providing an indication of the investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 62. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland, Buente and Slutzky as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland, Buente and Slutzky does not render obvious claim 62. Since claim 64 ultimately depends from claim 62 and therefore include all of the features recited in claim 62, it is respectfully submitted that the rejection of claim 64 should be withdrawn.

**c. Rejection of Claim 78**

Claim 78 ultimately depends from and include all of the features recited in claim 74. As described above, claim 74 relates to a method for investing in Brownfields that includes using a computer system to establish a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receive an indication of investor capital from investors into the Brownfields fund, approve an entity that has an ownership interest in the Brownfields for investment capital from the Brownfields fund for a Brownfields project according to predetermined criteria, and provide an indication of the investment capital provided from the Brownfields fund to the approved entity for the approved project using at least some of the investor capital from the investors. The present invention directly connects investors to projects by Brownfields owners through a managed Brownfields fund. Without requiring the involvement of any further intermediaries, e.g., banks or other institutions, the present invention facilitates, for example, the remediation of Brownfields, by increasing the desirability of investment in Brownfields projects directly through the Brownfields fund.

Also as described above, neither McClelland nor Buente clearly illustrate or describe a method for investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital for a Brownfields project who has an ownership interest in the Brownfields according to predetermined criteria, and providing an indication of the investment capital from the fund to

the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 74.

It is respectfully submitted that Slutzky fails to cure these defects. There is no mention or suggestion in Slutzky concerning any financing of the lender or the lender's decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Slutzky clearly neither illustrates nor describes a method for investing in Brownfields with the use of information from a computer system, including the steps of establishing a Brownfields fund that provides investment capital while remaining passive with respect to Brownfields projects, receiving an indication of investor capital from investors, approving an entity for the investment capital for a Brownfields project who has an ownership interest in the Brownfields according to predetermined criteria, and providing an indication of the investment capital from the fund to the approved entity, with the investment capital including at least some of the investor capital, as recited in claim 74. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland, Buente and Slutzky as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland, Buente and Slutzky does not render obvious claim 74. Since claim 78 ultimately depends from claim 74 and therefore include all of the features recited in claim 74, it is respectfully submitted that the rejection of claim 78 should be withdrawn.

**d. Rejection of Claim 86**

While Applicant respectfully disagrees with the merits of this rejection and believe that claim 86 is allowable for at least the same reasons as set forth above, to facilitate matters, claims 79 to 87 have been canceled herein without prejudice or waiver, thereby rendering moot the present rejection. Withdrawal of this rejection is therefore respectfully requested.

**e. Rejection of Claim 89**

Claim 89 ultimately depends from and include all of the features recited in claim 88. As described above, claim 88 relates to a method for investing in Brownfields fund that includes using a computer system to provide an indication of investor capital into a Brownfields fund, and receive an indication of a return on investment. The Brownfields fund provides investment capital for Brownfields projects and remains passive with respect to the Brownfields projects. The Brownfields fund approves an entity who has an ownership

interest in a Brownfields to receive the investment capital for a Brownfields project according to select criteria. The Brownfields fund provides the investment capital to the approved entity using at least some of the investor capital without taking any ownership interest in the Brownfields property associated with the project. The return on the investment is determined as a function of the predetermined terms of investment.

Also as described above, neither McClelland nor Buente clearly illustrate or describe a method of investing in Brownfields with the use of information from a computer system, including the steps of providing an indication of investor capital into the Brownfields fund, the Brownfields fund approving an entity with an ownership interest in a Brownfields for the investment capital according to select criteria; providing investment capital from the Brownfields fund, using at least some of the investor capital in the fund, while remaining passive with respect to a Brownfields project associated with the Brownfields; and receiving an indication of a return on investment based on the predetermined terms of investment, as recited in claim 88.

It is respectfully submitted that Slutzky fails to cure these defects. There is no mention or suggestion in Slutzky concerning any financing of the lender or the lender's decision process or any other structure of a Brownfields fund remotely resembling that described in the present invention. Thus, Slutzky clearly neither illustrates nor describes a method of investing in Brownfields with the use of information from a computer system, including the steps of providing an indication of investor capital into the Brownfields fund, the Brownfields fund approving an entity with an ownership interest in a Brownfields for the investment capital according to select criteria; providing investment capital from the Brownfields fund, using at least some of the investor capital in the fund, while remaining passive with respect to a Brownfields project associated with the Brownfields; and receiving an indication of a return on investment based on the predetermined terms of investment, as recited in claim 88. Further, it is respectfully submitted that there is no teaching, suggestion or motivation to modify or combine McClelland, Buente and Slutzky as suggested by the Examiner.

Therefore, it is respectfully submitted that the combination of McClelland, Buente and Slutzky does not render obvious claim 88. Since claim 89 ultimately depends from claim 88 and therefore include all of the features recited in claim 88, it is respectfully submitted that the rejection of claim 89 should be withdrawn.



**V. Rejection of Claims 79 to 87 Under 35 U.S.C. § 101**

Claims 79 to 87 were rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. The Examiner stated that "an investment vehicle is not patentable." While applicant respectfully disagrees with the Examiner's contention and interpretation of statutory requirements, in order to expedite issuance of a patent, Applicant has nonetheless cancelled claims 79 to 87 from this application. It is therefore respectfully submitted that this rejection should be withdrawn.

**VI. Allowable Subject Matter**

Applicant notes with appreciation the indication of allowable subject matter contained in claim 72. Claim 72 has been rewritten herein in independent form to include all of the limitations of its respective base claim and any intervening claims. It is therefore respectfully submitted that claim 72 is in condition for immediate allowance, and withdrawal of the objection to claim 72 is respectfully requested.

**VII. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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